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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/223,875	12/31/1998	RICHARD C. FENWICK JR.	ONCO-003	4405

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Paul A Ragusa
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New York, NY 10112

EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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02/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/223,875	Applicant(s) FENWICK ET AL.	
	Examiner Reuben M. Brown	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-25 and 27-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 14-25 and 27 is/are allowed.
- 6) ☒ Claim(s) 28-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/9/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 28-37 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 28-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang, (U.S Pat # 6,049,823).

Considering claims 28 & 31, the claimed method of presenting an audiovisual signal to a user's audiovisual display monitor comprising, *'receiving a command at a host computer from the user and responding to the command by assigning an assignable computing device to the user'* is met by the disclosure of Hwang that when a viewer requests a private session, the system

allocates a particular Channel-Processor to that user, col. 13, lines 40-61 & col. 17, lines 15-40.

Hwang teaches that each private viewing session requires a dedicated Channel-Processor for each customer.

The Channel-processor in Hwang reads on an ACD, since it is disclosed that it is a PC, see col. 4, lines 52-60 & col. 13, lines 1-5.

Regarding the feature of *'presenting a menu containing a selection of video programs to the user's audiovisual display monitor with the ACD'*, *'receiving commands from the in-room communication device with the ACD'*, *'responding to the commands with responsive graphical images displayed on the user's audiovisual display monitor'*, Hwang teaches that once a private viewing session is activated, that the viewer is enabled to select and receive movies on demand from a menu, see col. 16, lines 61-67 & col. 17, lines 50-67 thru col. 18, lines 1-25. Hwang furthermore discloses that on a private viewing channel, the user can order any on-demand services for movies, games and shopping; see col. 1, lines 55-60. Thus the claimed feature is met by the combination of Hwang & Duso.

Regarding the amended claimed feature of, *'receiving a signal from the user selecting one of the video program offered in the interactive menu'*, reads on Hwang, col. 21, lines 1-52. *'tracking the availability of audiovisual serving devices and programs'*, reads on col. 18, lines 1-20; col. 20, lines 60-67. *'assigning an available audiovisual serving device if the video program*

is one of video games, internet access or computer application program, is met by the choice in Hwang on the channel processor which supplies the appropriate private channel for the appropriate content, see col. 13 lines 41-67, *'assigning an available audio visual serving device having the selected if the ACD is not assigned as the audiovisual serving device'*, also read son the operation Hwang, col. 8, lines 5-30; col. 17, lines 15-25; col. 20, lines 61-67. *'routing the video program from the audiovisual serving device to the appropriate user's audiovisual display monitor'* is inherent in Hwang.

Considering claims 29 & 34-35, Hwang teaches menus that display available programming, col. 13, lines 40-50.

Considering claims 30 & 33, the claimed stored preferences, reads on the disclosure in Hwang that if the guest has previously used the system, then the previous session information is available form the server, col 16, lines 58-63.

Considering claim 32, the claimed apparatus corresponds with subject matter mentioned above in the rejection of claim 28, and is likewise treated

Considering claims 36-37, see Hwang, col. 13, lines 40-61.

Allowable Subject Matter

4. Claims 1-12, 14-25 & 27 are allowable over prior art of record. Duso teaches a VOD system wherein a stream server buffer 91, 92 is dedicated to one only client, col. 20, lines 21-34. Furthermore, McCalley discloses a plurality of session servers 20, each one of which is dedicated to serving a particular client, col. 4, lines 45-55. However, prior art of record does not teach the combination of elements recited in the presently amended claims.

Considering claim 1, prior art of record does not teach a method of presenting an audiovisual signal to a user's audiovisual display monitor comprising; receiving a command from a user; responding to the command by assigning an assignable computing device (ACD) to the particular user only, such that the ACD is not available for concurrent communication with others; establishing a communications link between the user's audiovisual display monitor and the ACD; presenting a menu containing a selection of video programs to the user's audiovisual display monitor with the ACD; receiving a signal from the user selecting one of the video programs for display; tracking availability of the audiovisual display monitor; routing the selected video program from the ACD to the user's audiovisual display monitor if the selected video program is one of video, Internet access or computer application programs; assigning an

available audiovisual serving device having the selected video program stored to deliver the selected video program to the user if the selected video program is not provided by the ACD; breaking the communications link between the user and the ACD in response to selecting; establishing another communications link between an audiovisual server device having stored thereon the selected video program and the user's audiovisual display monitor; and routing the selected video program from the assigned audiovisual server device to the user's audiovisual display monitor.

Considering claim 16, the claimed method and apparatus for presenting an audiovisual display monitor, comprises elements that correspond with subject matter mentioned above in the analysis of claim 1, and is likewise treated. Considering claims 2-12, 14-15, 17-25 & 27, the instant claims depend directly or indirectly from the above claims 1 & 16, and therefore are allowable for at least the same reasons.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) McCalley Discloses a session server dedicated to serving a particular client.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)


Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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